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Election
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:

Barry, *et al.*

Appl. No.: 09/987,485

Filed: November 14, 2001

For: **Methods for the In Vivo
Labeling of Peptides**

Group Art Unit: 1648

Examiner: Li, Bao

Atty. Dkt. 7572/73184
(Formerly: 15987/282434)

Response to Restriction Requirement

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the Office Action dated March 26, 2003, in which the Examiner imposed a restriction requirement on the above-captioned application, Applicants hereby elect the inventions of Group I. This includes claims 1-4, 7-9 and 15-17, directed to a fusion protein of a non-envelope virus. In accordance with the requirement set forth in the Office Action, Applicants also elect a PSTCD peptide. It is respectfully requested that claims in non-elected restriction groups II, III and IV, *i.e.*, claims 5, 6, 10-14 and 18-36 be cancelled without prejudice.

This election is made with traverse.

The Examiner indicates that each biotinylation-competent protein or peptide represents a patentably distinct compound and that they are therefore not species. However, these peptides and proteins are, in fact, species of the genus set forth in paragraph a) of claim 1. An evaluation of the patentability of claim 1 would therefore appear to require a consideration of each of the specific compounds recited in the Office Action. Beyond this, the patentability of the individual species depends upon the context in which they are considered

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and the prior art that may be identified. With these considerations in mind, Applicants respectfully request that the Examiner reconsider this issue.

Applicants do not believe that any fees, other than those that may be already provided for herewith, are required for the filing of the present document. Nevertheless, any additional fees that may be required may be charged to our Deposit Account No. 06-1135 under order number 7572/73184.

If the Examiner believes that a phone call may help to expedite this matter, the Examiner is invited to call Applicants' undersigned attorney at (202)419-7013.

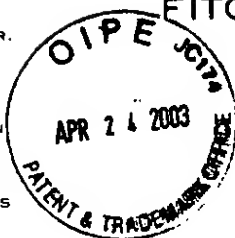
Respectfully submitted,

FITCH, EVEN, TABIN & FLANNERY

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April 24, 2003

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Re: Response to Restriction Requirement
Appl. No.: 09/987,485
Filed: November 14, 2001
Title: **Methods for the *In Vivo* Biotin Labeling of Polypeptides**
Inventor(s): Barry, *et al.*
Atty. Dkt.: 7572/73184 (formerly 15987/282434)

Dear Sir:

The following documents are being forwarded herewith for appropriate action by the U.S. Patent and Trademark Office:

1. Response to Restriction Requirement;
2. Change of Address Notice; and;
3. Return Postcard.

Applicants do not believe that any fee is due for the filing of this response as indicated below. However, The Commissioner is hereby authorized to charge any fee deficiency to our Deposit Account No. 06-1135 under Order No. 7572/73184.

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*ADMITTED TO D.C. BAR; D.C. PRACTICE OF ALL OTHERS LIMITED TO FEDERAL COURTS AND AGENCIES

CALCULATION OF ADDITIONAL FEES

Applicant(s) have calculated additional fees as follows:

	No. After Amendment	No. Previously Paid for	No. Extra	Rate	Fee
Total Claims Fee	10	37=	0	\$ 18.00	0.00
Independent Claims Fee	1	3 =	0	\$ 84.00	0.00
Multiple Dependent Claims Fee (Previously Paid)	0	0	0	\$ 280.00	0.00
Total Additional Claims Fee					0.00
TOTAL FEES DUE					0.00

It is respectfully requested that the enclosed postcard be stamped with the date the enclosed documents are received by the PTO and that it be returned as soon as possible.

Very truly yours,

FITCH, EVEN, TABIN & FLANNERY



Michael A. Sanzo
Reg. No. 36,912
Attorney for Applicants

MAS:ct
Enclosures